

## REMARKS

With this Response, no claims are amended, added, or canceled. Therefore, claims 1-26 are pending.

### CLAIM REJECTIONS - 35 U.S.C. § 101

Claims 9-16 were rejected under 35 U.S.C. § 101 because the claimed invention is purported to be directed to non-statutory subject matter. The Office Action on page 2 refers to pages 13 and 14 of the specification where the alleged computer readable medium is not limited to tangible product or medium. Pages 13 and 14 have been amended to exclude propagated signals such as electrical, optical, acoustical or other form of propagated signals (e.g., carrier waves, infrared signals, digital signals, etc.) from the examples of computer readable medium. Thus, Applicants submit that the non-statutory subject matter rejection has been overcome.

### CLAIM REJECTIONS - 35 U.S.C. § 102

Claims 1-5, 8-10, 13-14, 17-18, 21, and 23 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,993,645 issued to Joseph et al. (hereinafter "Joseph"). Applicants submit that these claims are not anticipated by Joseph for at least the following reasons.

Claim 1 recites the following:

accessing a pre-boot driver at a computer system during operating system runtime of the computer system;

**depositing the pre-boot driver** in a repository available to firmware of the computer system;

**finding the pre-boot driver** at the repository by the firmware during a subsequent pre-boot phase of the computer system; and

executing the pre-boot driver during the subsequent pre-boot phase.

Claims 9, 13, and 17 similarly recite depositing and/or finding a **pre-boot driver** in a repository available to the firmware. Claim 23 recites a storage device to store a **pre-boot driver** to enable the firmware to access a device during a pre-boot phase. Thus the claimed invention makes a pre-boot driver available to the firmware so that a device, which previously was inaccessible during the pre-boot phase, can be accessed during a pre-boot phase.

Joseph discloses displaying content to a user during the initial boot sequence of a computer. Column 3, lines 10-13. A content player fetches data, which includes an image, from the persistent storage medium and writes the image to the display monitor. Column 4, line 66 to column 5, line 8. Joseph further discloses updating the content to be displayed. Column 3, lines 15-21. After loading the operating system, a content fetcher retrieves and stores updated content for display to the user during the next boot sequence. See column 5, line 64 to column 6, line 16. As Applicants have understood Joseph, the cited reference does not disclose or suggest a **pre-boot driver** to enable the firmware to access a device during the pre-boot phase. Applicants respectfully point out the distinction between displaying an image during the pre-boot phase and enabling a device to function during the pre-boot phase.

Furthermore, the only reference Joseph makes to drivers is to state, “drivers for managing the delivery of audio information to speakers are managed by the operating system and are not available during the boot sequence.” Therefore, Joseph teaches away from the claimed invention of making a device available during the pre-boot phase, where the device was previously inaccessible during the pre-boot phase.

Thus, Applicants respectfully submit that Joseph does not disclose or suggest depositing and/or finding a **pre-boot driver** in a repository available to the firmware, as recited in claims 1, 9, 13 and 17. Joseph also does not disclose or suggest a storage device to store a **pre-boot**

**driver**, as recited in claim 23. Because Joseph fails to disclose or suggest at least one limitation of the claims, Joseph fails to provide support for an anticipation rejection under MPEP § 2131. Therefore, Applicants respectfully submit that claims 1, 9, 13, 17, and 23 are not anticipated by the cited reference.

Claims 2-5, 8, 10, 14, 18, and 21 depend, either directly or indirectly, from the independent claims addressed above. Because dependent claims necessarily include the limitations of the claims from which they depend, Applicants respectfully submit that these claims are not anticipated by the cited reference for at least the reasons set forth above with respect to the independent claims.

#### **CLAIM REJECTIONS - 35 U.S.C. § 103**

Claims 6-7, 11-12, 15-16, 19-20, 22, and 24-26 were rejected under 35 U.S.C § 103(a) as being unpatentable over Joseph. The rejection of these claims is based upon the rejection of the independent claims, the deficiencies of which are discussed above. Applicants respectfully submit that Joseph fails to disclose or suggest at least one element of the invention as recited in the independent claims, and so fails to support an obviousness rejection of claims depending from the independent claims. See MPEP § 2143.03.

### **CONCLUSION**

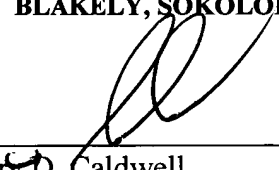
For at least the foregoing reasons, Applicant submits that the rejections of the claims have been overcome herein, placing all pending claims in condition for allowance. Such action is earnestly solicited. The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the above-referenced application.

Please charge any shortages and credit any overcharges to our Deposit Account number 02-2666.

Respectfully submitted,  
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Date: \_\_\_\_\_

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